Council, DSH Steering Committee, and other membership groups.

For 90 years the hospitals and caregivers of Sinai Health System have provided medical care and social services to Chicago's neediest communities in west and south Chicago. Sinai Community Institute provides social service outreach for the lifestyle issues that contribute to health while the Sinai Urban Health institute researches the prevalence of chronic disease in Chicago neighborhoods. Collectively, the Sinai Health System provides a full continuum of care for acute, primary, specialty and rehabilitation to meet the needs of the communities and patients it serves.

CUBAN INDEPENDENCE DAY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 2009

Mr. MEEK of Florida. Madam Speaker, I would like to recognize that today, May 20, 2009, is Cuban Independence Day. On this day, many people in my home community of South Florida will mark the rich cultural heritage and deep-rooted traditions of Cuban Independence Day. What was once a day of festivity and joy has become a day of nostalgia for a Cuba that once was free, but also of hope that it will soon regain its freedom.

As we continue to see political prisoners jailed in Cuba for peacefully expressing their rights and freedoms, we must remember that May 20, 1902, stood as a day of freedom and liberty after years of struggle and hardship.

Political prisoners today such as Dr. Oscar Elias Biscet and dissidents like Jorge Luis Garcia Perez ''Antunez'' hold strong unto their forefathers' passion for liberty and desire to live in a free and transparent democracy. While Dr. Biscet currently serves a 25-year prison sentence in Cuba, even from behind bars, he continues to promote democracy, social justice and liberty for all Cuban people.

Close friends, neighbors and many others who I grew up with are Cuban-Americans who have come to this country with little else beyond the clothes on their back and are now living the American Dream. I stand alongside these patriotic individuals as they mark May 20th in our State. They are men and women who love their adopted homeland, but long for their native land to allow them the freedoms they enjoy here. I offer them my solidarity on this special day.

WALL STREET JOURNAL OP-ED PIECE ON TORTURE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 2009

Mr. YOUNG of Alaska. Madam Speaker, I rise today to introduce the following Op-Ed piece from the May 16, 2009 edition of the Wall Street Journal. I believe this piece speaks to the reactive nature of Congress, and will help shed some light on this issue to those both inside and outside the Beltway.

[From the Wall Street Journal, May 16, 2009]

CRITICS STILL HAVEN'T READ THE ''TORTURE'' MEMOS

(By Victoria Toensing)

Sen. Patrick Leahy wants an independent commission to investigate them. Rep. John Conyers wants the Obama Justice Department to prosecute them. Liberal lawyers want to disbar them, and the media maligns them.

What did the Justice Department attorneys at George W. Bush's Office of Legal Counsel (OLC)—John Yoo and Jay Bybee—do to garner such scorn? They analyzed a 1994 criminal statute prohibiting torture when the CIA asked for legal guidance on interrogation techniques for a high-level al Qaeda detainee (Abu Zubaydah).

In the mid-1980s, when I supervised the legality of apprehending terrorists to stand trial, I relied on a decades-old Supreme Court standard: Our capture and treatment could not ''shock the conscience'' of the court. The OLC lawyers, however, were not asked what treatment was legal to preserve a prosecution. They were asked what treatment was legal for a detainee who they were told had knowledge of future attacks on Americans.

The 1994 law was passed pursuant to an international treaty, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment. The law's definition of torture is circular. Torture under that law means ''severe physical or mental pain or suffering,'' which in turn means ''prolonged mental harm,'' which must be caused by one of four prohibited acts. The only relevant one to the CIA inquiry was threatening or inflicting ''severe physical pain or suffering.'' What is ''prolonged mental suffering''? The term appears nowhere else in the U.S. Code.

Congress required, in order for there to be a violation of the law, that an interrogator specifically intend that the detainee suffer prolonged physical or mental suffering as a result of the prohibited conduct. Just knowing a person could be injured from the interrogation method is not a violation under Supreme Court rulings interpreting ''specific intent'' in other criminal statutes.

In the summer of 2002, the CIA outlined 10 interrogation methods that would be used only on Abu Zubaydah, who it told the lawyers was ''one of the highest ranking members of'' al Qaeda, serving as ''Usama Bin Laden's senior lieutenant.'' According to the CIA, Zubaydah had ''been involved in every major'' al Qaeda terrorist operation including 9/11, and was ''planning future terrorist attacks'' against U.S. interests.

Most importantly, the lawyers were told that Zubaydah—who was well-versed in American interrogation techniques, having written al Qaeda's manual on the subject—''displays no signs of willingness'' to provide information and ''has come to expect that no physical harm will be done to him.'' When the usual interrogation methods were used, he had maintained his ''unabated desire to kill Americans and Jews.''

The CIA and Department of Justice lawyers had two options: continue questioning Zubaydah by a process that had not worked or escalate the interrogation techniques in compliance with U.S. law. They chose the latter.

The Justice Department lawyers wrote two opinions totaling 54 pages. One went to White House Counsel Alberto Gonzales, the other to the CIA general counsel.

Both memos noted that the legislative history of the 1994 torture statute was ''scant.'' Neither house of Congress had hearings, debates or amendments, or provided clarification about terms such as ''severe'' or ''prolonged mental harm.'' There is no record of Rep. Jerrold Nadler—who now calls for impeachment and a criminal investigation of the lawyers—trying to make any act (e.g., waterboarding) illegal, or attempting to lessen the specific intent standard.

The Gonzales memo analyzed ''torture'' under American and international law. It noted that our courts, under a civil statute, have interpreted ''severe'' physical or mental pain or suffering to require extreme acts: The person had to be shot, beaten or raped, threatened with death or removal of extremities, or denied medical care. One federal court distinguished between torture and acts that were ''cruel, inhuman, or degrading treatment.'' So have international courts. The European Court of Human Rights in the case of Ireland v. United Kingdom (1978) specifically found that wall standing (to produce muscle fatigue), hooding, and sleep and food deprivation were not torture.

The U.N. treaty defined torture as ''severe pain and suffering.'' The Justice Department witness for the Senate treaty hearings testified that ''[t]orture is understood to be barbaric cruelty . . . the mere mention of which sends chills down one's spine.'' He gave examples of ''the needle under the fingernail, the application of electrical shock to the genital area, the piercing of eyeballs. . . .'' Mental torture was an act ''designed to damage and destroy the human personality.''

The treaty had a specific provision stating that nothing, not even war, justifies torture. Congress removed that provision when drafting the 1994 law against torture, thereby permitting someone accused of violating the statute to invoke the long-established defense of necessity.

The memo to the CIA discussed 10 requested interrogation techniques and how each should be limited so as not to violate the statute. The lawyers warned that no procedure could be used that ''interferes with the proper healing of Zubaydah's wound,'' which he incurred during capture. They observed that all the techniques, including waterboarding, were used on our military trainees, and that the CIA had conducted an ''extensive inquiry'' with experts and psychologists.

But now, safe in ivory towers eight years removed from 9/11, critics demand criminalization of the techniques and the prosecution or disbarment of the lawyers who advised the CIA. Contrary to columnist Frank Rich's uninformed accusation in the New York Times that the lawyers ''proposed using'' the techniques, they did no such thing. They were asked to provide legal guidance on whether the CIA's proposed methods violated the law.

Then there is Washington Post columnist Eugene Robinson, who declared that ''waterboarding will almost certainly be deemed illegal if put under judicial scrutiny,'' depending on which ''of several possibly applicable legal standards'' apply. Does he know the Senate rejected a bill in 2006 to make waterboarding illegal? That fact alone negates criminalization of the act. So quick to condemn, Mr. Robinson later replied to a TV interview question that he did not know how long sleep deprivation could go before it was ''immoral.'' It is ''a nuance,'' he said.

Yet the CIA asked those OLC lawyers to figure out exactly where that nuance stopped in the context of preventing another attack. There should be a rule that all persons proposing investigation, prosecution or disbarment must read the two memos and all underlying documents and then draft a dissenting analysis.